

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 455 – SB 625

April 8, 2013

SUMMARY OF ORIGINAL BILL: Requires the court clerk to notify any person who has a legal claim to the proceeds of a pending property sale, provided the person notifies the clerk of such legal claim prior to the sale. Notice to parties or others in delinquent tax suits and sales are to be governed by the Tennessee Rules of Civil Procedure.

FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact – There will be a shift in local government expenditures and responsibilities from the delinquent tax attorney to the clerk of the court resulting in a not significant net impact to local governments.

SUMMARY OF AMENDMENTS (004513, 003941): Amendment 004513 deletes and rewrites Section 1 of the original bill; requires parties receiving notice pursuant to Tenn. Code Ann. § 67-5-2502(a)(3), to also be given notice of the amount of proceeds resulting from the sale, the division of such proceeds, and the remainder, if proceeds remain after distribution pursuant to Tenn. Code Ann. § 67-5-2501. Amendment 003941 adds a new section authorizing the court clerk to charge a reasonable processing fee, deducted from the proceeds of a property sale, to cover expenses incurred by the court in sending the notice.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Other Fiscal Impact - There will be a shift in revenue within any applicable local government from tax sale proceeds to the court clerk for paying costs associated with making required notification. In addition, there will be a shift in expenditures from the delinquent tax attorney to the court clerk as a result of shifting the notification requirements from the delinquent tax attorney to the court clerk. Any net fiscal impact to local government revenue or expenditures is considered not significant.

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 67-5-2501(b)(3), the proceeds from such sale shall be applied first to the payment of the ten percent penalty allowed as compensation for

prosecuting the suit, second to the costs, and third the remainder shall be applied to the state first, county second, and the municipality third, the amount due each to be ascertained by a decree of the court.

- Pursuant to Tenn. Code Ann. § 67-5-2502(a)(3), notice to parties or others in delinquent tax suits and sales shall be governed by the Tennessee Rules of Civil Procedure, and may be forwarded to the address of a property owner.
- According to the Tennessee Association of Property Tax Professionals (TAPTP), currently this requirement does not include notification of the results of the property tax sale.
- While the precise number of local governments who currently send notification of results of a property tax sale is unknown, it is estimated that 50 percent, or 48 counties, are currently performing this notification.
- Based on responses to the 2012 Local Government Survey conducted by the Fiscal Review Committee, participating county officials reported conducting an average of three delinquent property tax sales per year, with an average of 34 properties offered at each sale, and approximately 57 percent of properties offered being sold; resulting in approximately 5,523 properties sold at delinquent tax sales per year statewide [(34 properties x 57% sold) x 3 sales per year x 95 counties holding sales].
- Pursuant to Tenn. Code Ann. § 67-5-2502(c), the delinquent tax attorney shall make a reasonable search of the public records and give notice to persons identified by the search as having an interest in the property prior to the tax sale.
- It is reasonably estimated that 50 percent, or 2,761 properties, will have parties who have been notified by the delinquent tax attorney prior to the delinquent tax sale.
- It is indeterminable how many parties will be identified prior to the sale as having an interest in the property, the method of notification that will be used after the sale has occurred and if any additional resources will be required by the county for such notification after the sale. However, the recurring increase in local government expenditures for providing such additional notifications is reasonably estimated to exceed \$5,000 per year statewide.
- Based on previous information provided by the Tennessee Association of Property Tax Professionals (TAPTP), costs currently associated with the notification process are paid by the county delinquent tax attorney.
- It is assumed the provisions of this bill as amended will shift the notification responsibilities currently being executed by the delinquent tax attorney to the clerk of court; thus shifting all costs associated with notification to the clerk of court.
- This shift in cost for notification will occur within local government. Any net impact to local government expenditures is estimated to be not significant.
- The bill as amended would allow court clerks to claim a reasonable fee from the proceeds of a property sale to cover the costs for notifications sent to property owners. Any fee charged by court clerks, deducted from the proceeds of a tax sale, will be claimed from local government proceeds resulting in a shift in revenue within the applicable local government. Any net impact to local government revenue is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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